

## PATENT

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## III. Remarks

Claims 1-30 and 92-125 are pending in the present application.

Objected to claim 7 has been canceled and rewritten in independent form as claim 126. Claim 8 has been amended accordingly to change its dependency. Allowance of Claims 126 and 8 are respectfully requested.

## A. Rejection under 35 U.S.C. § 102

The Action now rejects Claims 26-30, 117-121 and 124-125 as being anticipated by Garahi et al. Reconsiderations and withdrawal of this rejection are respectfully requested.

Claim 26 originally depended from independent claim 1, which was directed to a method of providing wagering data including the steps providing and updating live odds. Claim 26 added certain method steps directed to providing a track board to a user, providing status of races in the track board and providing certain data dependent upon the status of an individual race selected by a user.

The Garahi reference was first cited by the Examiner in an office action dated December 4, 2003. In that Action, the Examiner rejected independent claim 1 as being obvious from Garahi in view of Brenner, but stated that claim 26 contained allowable subject matter, i.e., its features were not taught by either Garahi or Brenner or their combination. Applicants did not amend Claim 1 or 26 in its response to this Action.

On December 23, 2004, the Patent Office issued a new office action withdrawing the previous rejection, and this time rejecting claim 1 as being obvious from Brenner in view of Garahi in further view of Boylan. The Examiner again stated that claim 26 contained allowable subject matter.

In response to this Action and in reliance on the previous Action, Applicants amended claim 26 into an independent claim and made claim 1 dependent thereon, as it was evident from

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the previous rejections that the combination of the references, although alleged to teach each feature of claim 1, did not teach the additional steps recited in claim 26.

The Action now rejects independent claim 26 as being anticipated by Garahi and dependent claim 1 has being obvious from the combination of Garahi, Brenner and Boylan. Applicants respectfully submit that these rejections are completely inconsistent with previous assertions and concessions made by the Examiner. It is respectfully submitted that dependent claim 1, which recites the subject matter of previously prosecuted dependent claim 26, cannot now be obvious from Garahi, Brenner and Boylan when it was not so in the previous two office actions. Likewise, if the combination of Brenner, Boylan and Garahi did not previously teach steps claimed in dependent claim 26 as previously prosecuted, Garahi alone certainly does not teach claim 26 as rewritten in independent form to recite these steps. For at least this reason, reconsideration and withdrawal of the rejections are respectfully requested. At the very least, fairness warrants withdrawal of the finality of the present rejection.

Notwithstanding the foregoing, addressing the substance of the anticipation rejection of Claim 26 over U.S. Published Application No. 2001/0047291 to Garahi (hereinafter, "the Garahi Publication"), the Garahi Publication is prior art to the present application **only** by claiming priority to U.S. Provisional Application No. 60/194,799 filed April 5, 2000 (hereinafter, "the Garahi Provisional"). Indeed, the present application was filed October 31, 2000. The Garahi Publication was not published until November 29, 2001 and is based on an application filed April 2, 2001, both of which are after the filing date of the present application. Review of the disclosure of the Garahi Provisional for support for the disclosure of Garahi Publication relied upon by the Examiner in the Action is, therefore, required.

Claim 26 is directed to a method of providing wagering data for a race contest to a user through a computer network. The user is prompted to select a date within a predefined time period and a track board is transmitted through the computer network to a user terminal, wherein the track board is displayed to the user by the user terminal, the track board including a listing of

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tracks and a listing of races at the tracks for the date selected by the user. The races are distinguished from each other to the user by status as completed, open for wagering, and not yet open for wagering. The user is prompted to select a race from a track in the listing. Results data are displayed for a race selected by the user to the user with the user terminal if the status of the selected race is completed. Race program data is displayed for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering. Race entry data is displayed for a race selected by the user to said user with the user terminal if the status of the selected race is not yet open for wagering. Such a method is neither shown nor described in the Garahi Publication.

The entire disclosure of the Garahi Provisional is eight paragraphs long, with no drawings or supporting figures. The first five paragraphs merely describe parimutuel and fixed odds wagering formats. The final three paragraphs describe a method of taking parimutuel wagers well in advance of a race by creating a number of different parimutuel wagering pools in advance of a race. Each pool is only open for a fixed window so that odds can be fixed for respective pools once the respective window closes.

The dearth of disclosure and absence of supporting figures and drawings in the Garahi Provisional clearly do not describe or show in anyway at least the following features claimed in independent claim 26, emphasized in bold:

**transmitting a track board** through said computer network to a user terminal, wherein **said track board is displayed** to said user by said user terminal, **said track board including a listing of tracks and a listing of races at said tracks for a date selected by said user;**

**distinguishing said races from each other to said user by status as completed, open for wagering, and not yet open for wagering;**

**displaying results data for a race selected by said user to said user with said user terminal if the status of said selected race is completed;**

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**displaying race program data for a race selected by said user to said user with said user terminal if the status of said selected race is open for wagering; and**

**displaying race entry data for a race selected by said user to said user with said user terminal if the status of said selected race is not yet open for wagering.**

In summary, it is irrelevant what the Garahi Published Application teaches if there is no support for the disclosure in the Garahi Provisional, being that Garahi is only prior art to the present application through its priority claim to the Garahi Provisional. The focus must be on the disclosure within the priority document, which does not anticipate Applicants' method of claim 26. Claim 26, therefore, is allowable over the art of record.

Claims 1-6, 9-25, 27-30, 122 and 124 depend from Claim 26 and are, therefore, also allowable. Reconsideration and withdrawal of these rejections and the objection are respectfully requested in view of the foregoing amendments and the arguments set forth below.

Independent system claim 117 recites features that parallel method claim 26 and is, therefore, also allowable, along with the claims that depend therefrom. Reconsideration and withdrawal of these rejections and the objection are respectfully requested in view of the foregoing amendments and the arguments set forth below.

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## IV. Conclusion

In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1679.

Respectfully submitted,

Dated: 11/30/2005

  
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